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WILLY CARL LYONS

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

WILLY CARL LYONS,

PLAINTIFF,

vs.

D. BAUGHMAN,

DEFENDANT.

NO. CIV S-01-0412 LKK KJM P

**STIPULATED PROTECTIVE ORDER
FOR CONFIDENTIALITY OF
DOCUMENTS**

(With court clarification at footnote 1)

IT IS STIPULATED BY THE PARTIES AND ORDERED BY THE COURT AS
FOLLOWS:

A. CONFIDENTIAL MATERIAL SUBJECT TO THIS PROTECTIVE ORDER

During the course of discovery, Plaintiff requested all documents, files, memos and letters, including written reports, pertaining to the safety concerns of the Plaintiff. Some, if any, of these documents relating to Plaintiff's safety may be located in Plaintiff's Central file, which is created and maintained by the California Department of Corrections and Rehabilitation.

The information contained in the Central file may contain inflammatory statements made by other inmates, who have been identified as enemies of the Plaintiff. Release of any such material might violate the privacy rights of non-party inmates and may jeopardize the safety and security of the institution as well as inmates or other correctional personnel if disclosed. Central files contain

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1 privileged official information including information that is of a inflammatory, sensitive, and
2 confidential nature and as such the release of this information to an inmate may not be appropriate.

3 With respect to this records, the parties stipulate to the following procedure: (1) Before
4 CDCR releases these records to plaintiff, the parties will meet and confer to determine whether they
5 can agree that the records are not likely to lead to the discovery of relevant evidence and, therefore,
6 need not be produced, or are likely to lead to the discovery of relevant evidence and will be
7 produced subject to the conditions set forth below; (2) if the parties do not agree, then the documents
8 in question will be presented to the Court for its in camera review on or before 5:00 p.m. November
9 29, 2006 to determine whether such records are sufficiently likely to lead to the discovery of relevant
10 evidence in this case to warrant disclosure given the legal restrictions and security concerns
11 connected to these records; and (3) documents ordered to be produced after the in camera review
12 will be subject to the conditions of this protective order as set forth below.

13 **B. CONDITIONS FOR RELEASE OF CONFIDENTIAL MATERIAL**

14 Because of their relevance to this action, however, the CDC will produce Plaintiff's Central
15 file, including but not limited to, all material deemed confidential subject to this protective order and
16 on the following conditions:

17 1. The confidential material may be disclosed only to the following persons:

18 (a) Counsel of record for Plaintiff in this action;

19 (b) Paralegal, stenographic, clerical and secretarial personnel regularly employed by counsel
20 for Plaintiffs;

21 (c) Court personnel and stenographic reporters engaged in such proceedings as are incidental
22 to the preparation for the trial in this action;

23 (d) Any outside expert or consultant retained by Plaintiffs' counsel for purposes of this
24 action;

25 (e) Witnesses to whom the confidential material may be disclosed during or in preparation
26 for a deposition taken in this matter or otherwise during the preparation for trial and trial, provided
27 that the witness may not leave any deposition with copies of any of the confidential material, and
28 shall be informed and agree to be bound by the terms of this order;

1 2. Plaintiff's Counsel is prohibited from disclosing any confidential material or information
2 to Mr. Lyons or any inmate, presently or previously, in the custody of the California Department of
3 Corrections and Rehabilitation.

4 3. Plaintiffs' counsel and his legal assistants and consultants shall not make copies of the
5 confidential material except as necessary for purposes of this litigation.

6 4. Each person to whom disclosure of the confidential material is made shall, prior to the
7 time of disclosure, be provided by the person furnishing such materials a copy of this protective
8 order, and shall agree in writing that he or she has read the stipulated protective order, and
9 understands its provisions and conditions. The writing shall include the express consent of the
10 person to whom the disclosure is made to be subject to the jurisdiction of this Court with respect to
11 any proceeding related to enforcement of this stipulated protective order, including without
12 limitation, any proceeding for contempt.

13 5. All confidential material in possession of Plaintiffs' counsel shall be destroyed or returned
14 to the CDCR within 30 days of the time it is no longer needed for purposes of this litigation.

15 6. When Plaintiffs' counsel returns or destroys the confidential material, he shall provide
16 Defendants' counsel with a declaration stating the all confidential material has been returned or
17 destroyed.

18 7. All confidential material obtained by Plaintiffs' counsel shall not be disclosed except as
19 is necessary in connection with this or related litigation, including appeals, and not for any other
20 purpose, including any other litigation.

21 8. Any confidential material filed with the Court by either party shall be filed and
22 maintained under seal.¹

23 9. Nothing in this protective order is intended to prevent officials or employees of the State
24 of California, or other authorized government officials, from having access to confidential material
25 to which they would have access in the normal course of their official duties.

26
27 ¹ The court directs counsel to follow the procedures set forth in Local Rules 39-140 and
28 39-141 in seeking to file any documents under seal. Documents will be filed under seal only if and
when the court approves sealing.

- 1 10. The provisions of this protective order are without prejudice to the right of any party:
- 2 (a) To apply to the Court for a further protective order relating to any confidential material
- 3 or relating to discovery in this litigation;
- 4 (b) To apply to the Court for an order removing the confidential material designation from
- 5 any documents;
- 6 (c) To object to a discovery request.

7 11. The provisions of this order shall remain in full force and effect until further order of this

8 Court.

9 IT IS SO STIPULATED.

10 Date: November 8, 2006

_____/S/____Carter C. White_____
Carter C. White
Supervising Attorney
Attorney for Plaintiff

13 Date: November 8, 2006

_____/S/ Kelli Hammond_____
Kelli Hammond
Deputy Attorney General
Attorney for Defendant

16 IT IS SO ORDERED.

17 Date: November 14, 2006.



U.S. MAGISTRATE JUDGE